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2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

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HOWARD HENRY,

Plaintiff,

-against-

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WYETH PHARMACEUTICALS, INC., WALTER
WARDROP, ANDREW SCHASCHL, and
MICHAEL McDERMOTT,

Defendants.

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June 12, 2006

10:10 a.m.

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Videotaped deposition of HOWARD A.
HENRY, pursuant to notice, at the offices
of Orrick, Herrington & Sutcliffe LLP,
666 Fifth Avenue, New York, New York,
before Gail F. Schorr, a Certified
Shorthand Reporter, Certified Realtime
Reporter and Notary Public within and for
the State of New York.

1

HOWARD A. HENRY

10:31:49 2

Q. Mr. Henry, are you married?

10:31:56 3

A. Yes, sir.

10:31:57 4

Q. Do you have any children?

10:31:58 5

A. No, sir.

10:31:58 6

Q. Have you been married

10:32:00 7

before?

10:32:00 8

A. No, sir.

10:32:00 9

Q. Can you tell me about your

10:32:01 10

educational background?

10:32:04 11

A. How far back?

10:32:06 12

Q. Start from high school,

10:32:07 13

please.

10:32:08 14

A. Graduated from Cardinal

10:32:11 15

Spellman High School. After that I

10:32:12 16

went to St. John's University and got a

10:32:15 17

degree in physical science. After that

10:32:18 18

I spent some time at the University of

10:32:20 19

Maryland, came home, worked and got a

10:32:24 20

degree from City College of New York in

10:32:27 21

approximately -- in the fall of 1997.

10:32:29 22

Q. And what degree was that

10:32:31 23

from City College?

10:32:31 24

A. Chemical engineering.

10:32:37 25

Q. That's a Master's degree?

1 HOWARD A. HENRY

10:32:39 2 A. Bachelor's degree. I have
10:32:41 3 two Bachelor's degrees.

10:32:44 4 Q. When did you get your
10:32:45 5 Bachelor's degree from St. John's?

10:32:47 6 A. 1990.

7 (Henry Exhibit 1 for
8 identification, Bates stamped 4026
9 through 4028.)

10 (Henry Exhibit 2 for
11 identification, Bates stamped 3320
10:33:27 12 through 3322.)

10:33:27 13 Q. I hand to you two documents.
10:33:29 14 The first document I handed you,
10:33:30 15 Exhibit number 1, if you look in the
10:33:32 16 lower right-hand corner there's a Bates
10:33:34 17 number, 4026. The second document I
10:33:36 18 handed you, Exhibit number 2, if you
10:33:38 19 look in the right-hand corner of that
10:33:40 20 document there's a Bates number 3320.

10:33:51 21 Mr. Henry, referring to
10:33:53 22 Exhibit number 1, this is a copy of
10:33:54 23 your resume?

10:33:55 24 A. Yes, sir.

10:33:56 25 Q. Exhibit number 2 is also a

HOWARD A. HENRY

10:39:22 2 through lab support in formulations of
10:39:24 3 the same American Cyanamid Company.
10:39:27 4 That lasted for three months I think.
10:39:30 5 And then soon after I got a job at
10:39:34 6 Nepera, and then that was a temporary
10:39:37 7 assignment also, and then I got a call
10:39:39 8 from Wyeth saying they want to hire me
10:39:42 9 permanently in August of 1993.

10:39:49 10 So in August of 1993 I began
10:39:50 11 my career at Wyeth working as a
10:39:52 12 full-time employee as a chemical and
10:39:55 13 development chemist.

10:40:00 14 Q. And who did you report to in
10:40:02 15 that position?

10:40:02 16 A. At that time it was Dr.
10:40:04 17 David Bloom.

10:40:07 18 Q. Dr. David Bloom was the
10:40:08 19 individual at Wyeth who hired you for
10:40:11 20 this position?

10:40:11 21 A. Correct.

10:40:17 22 Q. And what department did you
10:40:18 23 work in?

10:40:19 24 A. Chemical process research
10:40:21 25 and development. It was a medical --

1 HOWARD A. HENRY

10:40:24 2 it was a medical research division of
10:40:26 3 American Cyanamid.

10:40:28 4 Q. And what were your job
10:40:29 5 responsibilities in that position?

10:40:31 6 A. To synthesize ciral lead
10:40:37 7 compounds, to scale up bench chemistry,
10:40:41 8 to improve the chemical synthesis of
10:40:47 9 actual chemical processes, to assist
10:40:50 10 chemists and engineers in the scale-up
10:40:52 11 of these processes, and to optimize
10:40:57 12 reactions. That's some of the duties.
10:41:01 13 There's some other ones. I can't
10:41:03 14 recall them all.

10:41:04 15 Q. And did you report to
10:41:06 16 Dr. Bloom? Was he your supervisor?

10:41:14 17 A. When I first started, yes.

10:41:15 18 Q. Did anyone report to you?

10:41:16 19 A. Not at that time.

10:41:17 20 Q. What was the next position
10:41:18 21 you had at Wyeth?

10:41:24 22 A. Well, it's hard to
10:41:30 23 distinguish because at certain points
10:41:32 24 you're given certain opportunities.
10:41:34 25 The official position may have been the

1

HOWARD A. HENRY

10:45:35 2

A. That seems to be correct.

10:45:36 3

Q. And there is a change in

10:45:40 4

salary, correct?

10:45:41 5

A. Where are we looking?

10:45:42 6

Q. I'm comparing the June 27th,

10:45:45 7

1997 entry.

10:45:47 8

A. Okay.

10:45:48 9

Q. To the August 1st, 1997

10:45:50 10

entry.

10:45:51 11

A. That could have been a

10:45:52 12

promotion.

10:45:56 13

Q. All right. If you'd look

10:45:57 14

over -- are you familiar with the

10:46:01 15

grade, salary grade levels at Wyeth?

10:46:03 16

A. Somewhat. Not a hundred

10:46:05 17

percent.

10:46:07 18

Q. Is it your understanding

10:46:09 19

that as a chemist and as a scientist,

10:46:13 20

scientist 1, your grade level was a

10:46:16 21

four and then when you moved into the

10:46:20 22

position scientist 2 the grade level

10:46:22 23

changed to seven?

10:46:24 24

A. Okay. Yes.

10:46:26 25

Q. Would you consider that a

HOWARD A. HENRY

10:46:27 2 promotion?

10:46:28 3 A. More than likely it's a
10:46:29 4 promotion.

10:46:30 5 Q. And why would you consider
10:46:31 6 that a promotion?

10:46:32 7 A. Because of the level change,
10:46:35 8 the level changed.

10:46:37 9 Q. So you'd consider it a
10:46:39 10 promotion because there was a change in
10:46:41 11 the salary grade level?

10:46:42 12 A. Right.

10:46:43 13 Q. Do you know who was
10:46:48 14 responsible for promoting you to this
10:46:50 15 position?

10:46:51 16 A. More than likely it's
10:46:53 17 probably Kevin McCoy.

10:46:54 18 Q. Did you continue to report
10:46:56 19 to Mr. McCoy?

10:46:57 20 A. From what I can recall, yes.
10:46:59 21 They had -- they had different liaisons
10:47:01 22 that you would report to because you'd
10:47:02 23 work on different projects and report
10:47:05 24 to different people during your project
10:47:14 25 course. So there was a lot of quasi

HOWARD A. HENRY

10:47:20 2 relationships established. But
10:47:23 3 officially it may have been Kevin
10:47:25 4 McCoy.

10:47:26 5 Q. Now I'm looking further up
10:47:27 6 on this Exhibit 3, and if you notice
10:47:32 7 for the entry August 16th, 2000, there
10:47:35 8 is another change in title to
10:47:38 9 production engineer; is that correct?

10:47:40 10 A. Yes.

10:47:41 11 Q. Is it your understanding
10:47:43 12 that you received a new title
10:47:45 13 production engineer?

10:47:46 14 A. Yes.

10:47:46 15 Q. On that date?

10:47:47 16 A. Yes.

10:47:48 17 Q. If you look over further in
10:47:52 18 the right-hand column for that entry
10:47:55 19 August 16th, 2000, it shows a salary
10:47:57 20 grade of nine?

10:47:58 21 A. Yes.

10:47:59 22 Q. So is it your understanding
10:48:00 23 your salary grade changed from a seven
10:48:02 24 to a nine at this time?

10:48:03 25 A. Yes.

HOWARD A. HENRY

10:50:45 2 responsibilities in this position?

10:50:46 3 A. To optimize and to perform
10:50:48 4 general maintenance for the equipment
10:50:50 5 that -- that's used to produce Centrum
10:50:55 6 tablets, both Centrum and Centrum
10:50:59 7 Silver and whatever other Centrum
10:51:02 8 products we may be producing at the
10:51:07 9 time, Centrum line of products.

10:51:09 10 Q. You mentioned earlier that
10:51:19 11 you applied for this position to the
10:51:22 12 bidding process?

10:51:23 13 A. Yes.

10:51:28 14 Q. Can you describe for me how
10:51:29 15 that process works or how you
10:51:30 16 understand that process to work?

10:51:32 17 A. Basically opportunities are
10:51:34 18 either posted on the company website or
10:51:38 19 on bulletin boards throughout the
10:51:41 20 company. So occasionally you would
10:51:43 21 peruse these sites or these places. A
10:51:46 22 position may strike you as something
10:51:48 23 that you qualify for. And the formal
10:51:54 24 bidding process would be to submit a
10:51:56 25 resume either electronically or

1 HOWARD A. HENRY

10:51:58 2 manually in order for it to be
10:52:00 3 considered for the position.

10:52:03 4 Q. Is there any other way to
10:52:06 5 obtain a position internally at Wyeth?

10:52:10 6 A. Yes.

10:52:10 7 Q. And how is that?

10:52:13 8 A. There are individuals who
10:52:14 9 may have a relationship with someone
10:52:18 10 and they may tell them that a position
10:52:21 11 is available, and there may be certain
10:52:29 12 stipulations that one may use so this
10:52:31 13 person would be the most qualified for
10:52:33 14 the position, and positions are
10:52:37 15 afforded to people that way.

10:52:40 16 Q. Going back to the production
10:52:45 17 engineer position which you obtained in
10:52:47 18 August of 2000, do you know who else
10:52:50 19 bid on this position?

10:52:53 20 A. I can't recall names at this
10:52:56 21 point.

10:52:56 22 Q. Do you know who was in the
10:52:58 23 position before you?

10:53:01 24 A. Yes.

10:53:02 25 Q. If anyone?

HOWARD A. HENRY

10:54:01 2 Q. And your salary increased at
10:54:03 3 a fairly steady rate over the years in
10:54:06 4 1996 through 2004; is that correct?

10:54:09 5 A. From what I can see, yes.

10:54:15 6 Q. If you can turn your
10:54:16 7 attention to the first page of this
10:54:18 8 Exhibit number 3, please. The next
10:54:21 9 change in job title appears to be a
10:54:24 10 change in March 1st, 2005.

10:54:28 11 A. Right.

10:54:28 12 Q. To a change to process
10:54:32 13 engineer 3; is that correct?

10:54:33 14 A. That seems to be correct.

10:54:34 15 Q. Can you tell me what
10:54:35 16 happened in March of 2005 when you
10:54:39 17 obtained this new job title?

10:54:41 18 A. They introduced an
10:54:43 19 engineering ladder at that time, and
10:54:48 20 based on the qualifications that they
10:54:50 21 devised for the engineering ladder,
10:54:52 22 production engineers with certain years
10:54:54 23 of experience were either -- were
10:54:58 24 transposed into this new nomenclature.
10:55:01 25 So they became production engineers or

HOWARD A. HENRY

10:55:04 2 process engineers or principals -- it
10:55:07 3 depended on your level of experience
10:55:09 4 and your grade level as to the new
10:55:12 5 title you were given. So it was a
10:55:13 6 title change. Your duties remained the
10:55:15 7 same.

10:55:16 8 Q. Did anything change at this
10:55:18 9 time?

10:55:18 10 A. Just the title from what I
10:55:19 11 understand. From what I can recall is
10:55:21 12 the title.

10:55:22 13 Q. You continued reporting to
10:55:23 14 the same person?

10:55:23 15 A. From what I remember, yes.

10:55:29 16 Q. And at this time when your
10:55:30 17 title was changed in March of 2005, who
10:55:33 18 were you reporting to at that time?

10:55:36 19 A. 2005, March. I think it was
10:55:40 20 either a combination of Andrew Espejo
10:55:45 21 or Max Katz.

10:55:58 22 Q. As of August 2000 when you
10:56:00 23 obtained the production engineer
10:56:04 24 position, you said you were reporting
10:56:05 25 to Walter Wardrop, correct?

HOWARD A. HENRY

10:56:08 2 A. From August 2000, yes.

10:56:09 3 Q. When did you start reporting
10:56:12 4 to Mr. Espejo and Mr. Katz?

10:56:17 5 A. Mr. Katz, January 2005. Mr.
10:56:25 6 Espejo approximately May/June 2004, I
10:56:38 7 believe.

10:56:38 8 Q. And how did that change come
10:56:40 9 about when you started reporting to Mr.
10:56:43 10 Espejo in approximately May or June of
10:56:46 11 2004?

10:56:46 12 A. How did which change?

10:56:48 13 Q. The change from reporting to
10:56:50 14 Mr. Wardrop to Mr. Espejo?

10:56:57 15 A. There was an organizational
10:56:59 16 cascade. During that organizational
10:57:02 17 cascade certain individuals were
10:57:03 18 appointed to certain positions. As
10:57:05 19 they received their positions certain
10:57:10 20 individuals became part of their
10:57:11 21 reporting structure. And I fell into
10:57:17 22 Andrew Espejo's reporting structure.

10:57:19 23 Q. Is it because you were moved
10:57:21 24 or is it because Mr. Wardrop and/or Mr.
10:57:25 25 Espejo were moved?

1 HOWARD A. HENRY

10:57:26 2 A. It's kind of convoluted.
10:57:28 3 But the way in which it finally worked
10:57:30 4 out I became a person who fell into
10:57:37 5 this reporting structure of Andrew
10:57:39 6 Espejo by way of the new organizational
10:57:41 7 changes.

10:57:43 8 Q. Did you make any type of
10:57:45 9 request to report to Mr. Espejo?

10:57:48 10 A. Not that I can recall.

10:57:49 11 Q. Did you make any type of
10:57:50 12 request not to report to Mr. Wardrop?

10:57:55 13 A. Not to report to Mr.
10:57:57 14 Wardrop?

10:57:57 15 Q. Yes.

10:57:57 16 A. Not that I can recall.

10:57:59 17 Q. Did you make any request
10:58:04 18 about who you'd be reporting to?

10:58:06 19 A. Who I'd be reporting to?

10:58:08 20 Q. Yes.

10:58:09 21 A. Not that I can recall.

10:58:49 22 MR. McQUADE: Can you mark
10:58:50 23 this number 4, please.

24 (Henry Exhibit 4 for
10:59:04 25 identification, complaint.)

1

HOWARD A. HENRY

10:59:04 2

Q. Mr. Henry, I placed in front

10:59:06 3

of you a document that's been marked

10:59:08 4

Exhibit number 4. It's a copy of the

10:59:11 5

complaint that was filed in this

10:59:14 6

action. Is this the document that you

10:59:19 7

said you had reviewed before today's

10:59:21 8

deposition?

10:59:22 9

A. Without reading the entire

10:59:39 10

document, it looks to be -- it looks to

10:59:44 11

be the document. Without reading the

10:59:46 12

entire thing, just skimming it.

10:59:49 13

Q. In your complaint you allege

10:59:51 14

that you were denied a number of

10:59:53 15

promotions during your employment at

10:59:56 16

Wyeth because of your race; is that

10:59:59 17

correct?

10:59:59 18

A. Yes, sir.

11:00:01 19

Q. Can you tell me the first

11:00:07 20

instance in which you believe you were

11:00:09 21

denied a promotion because of your

11:00:11 22

race?

11:00:12 23

A. I applied for a position of

11:00:18 24

project engineer on or about --

11:00:23 25

sometime in -- I can't remember the

1 HOWARD A. HENRY

11:00:28 2 exact time frame, but it was around
11:00:31 3 2001/2002, yes, December 2001, about
11:00:37 4 that time.

11:00:39 5 Q. And how did you apply for
11:00:41 6 that position?

11:00:41 7 A. Using the bid process at
11:00:46 8 Wyeth.

11:00:49 9 Q. Why were you interested in
11:00:50 10 this position?

11:00:51 11 A. Because during a special
11:00:55 12 circumstance that had arisen at that
11:00:59 13 time certain individuals were given
11:01:00 14 opportunities to do other things and at
11:01:05 15 that time I was performing the duties
11:01:06 16 of a project engineer for a project
11:01:09 17 that was taking place during that time.
11:01:12 18 So I was functioning as a project
11:01:15 19 engineer. So that's where the interest
11:01:18 20 came from.

11:01:19 21 Q. Who were you working on this
11:01:21 22 special project with that you referred
11:01:23 23 to?

11:01:23 24 A. Peter McGarrigle, Kevin
11:01:27 25 Costello, and certain outside vendors.

1 HOWARD A. HENRY

11:01:38 2 Q. And can you describe the
11:01:39 3 project for me?

11:01:40 4 A. Basically it was called the
11:01:42 5 continuous coater project where we were
11:01:44 6 supposed to perform duties and
11:01:45 7 functions to facilitate the proper
11:01:52 8 installation, performance, of a new
11:01:54 9 technology that was called the
11:01:57 10 continuous tablet coater. So all the
11:02:00 11 equipment associated with that, all the
11:02:07 12 objects associated with that we were
11:02:09 13 responsible for.

11:02:10 14 Q. Do you know how this
11:02:11 15 position became open? Is there someone
11:02:16 16 that left Wyeth that opened up this
11:02:20 17 position as a project engineer?

11:02:21 18 A. From what I remember it was
11:02:22 19 a restructuring that occurred and
11:02:25 20 during this restructuring certain
11:02:30 21 engineers were given the title as
11:02:33 22 project engineers, certain engineers
11:02:37 23 will remain production engineers, so
11:02:39 24 forth and so on.

11:02:41 25 So there was some sort of

1

HOWARD A. HENRY

11:02:43 2

restructuring at that time that made

11:02:46 3

the position available.

11:02:46 4

Q. So you submitted a bid for

11:02:48 5

this open position, correct?

11:02:49 6

A. From what I remember, yes,

11:02:51 7

yes.

11:02:51 8

Q. And what happened next?

11:02:53 9

A. Well, I didn't receive the

11:02:57 10

opportunity and I didn't -- at that

11:03:02 11

time I just took it as, well I'll

11:03:05 12

continue to move on and continue

11:03:07 13

searching.

11:03:08 14

Q. Were you interviewed for the

11:03:10 15

position?

11:03:10 16

A. Not formally, no.

11:03:12 17

Q. Informally were you

11:03:13 18

interviewed?

11:03:14 19

A. I don't think I was

11:03:16 20

interviewed at all.

11:03:17 21

Q. Did you talk to anyone about

11:03:18 22

this position?

11:03:21 23

A. I may have made mention to

11:03:22 24

some of the engineers who were there at

11:03:25 25

the time.

1

HOWARD A. HENRY

11:03:25 2

Q. Do you know who the

11:03:27 3

decisionmakers were on this open

11:03:28 4

position?

11:03:28 5

A. I think the main

11:03:30 6

decisionmaker was Kevin Costello

11:03:33 7

himself.

11:03:34 8

Q. Kevin Costello and who?

11:03:35 9

A. I think he was -- from what

11:03:38 10

I remember I think he was the major

11:03:40 11

decisionmaker, Kevin Costello.

11:03:42 12

Q. Anyone else involved? You

11:03:44 13

said he was the major decisionmaker.

11:03:46 14

Was there anyone else involved?

11:03:47 15

A. Well, when I use the word

11:03:51 16

major, it's hard to tell who's major

11:03:53 17

and who's minor at times. You just

11:03:56 18

base your -- base your, for lack of a

11:04:00 19

better word, your ability to understand

11:04:02 20

and gather the information based on

11:04:04 21

what you see going on in front of you.

11:04:06 22

So he seemed to be the main one making

11:04:10 23

the decision because the person was

11:04:12 24

reporting to him.

11:04:12 25

Q. But you don't know who made

1 HOWARD A. HENRY

11:04:14 2 the decision?

11:04:15 3 A. Not a hundred percent.

11:04:17 4 Q. And you don't know who
11:04:24 5 was --

11:04:25 6 A. Well --

11:04:26 7 Q. -- was involved in this
11:04:27 8 decision?

11:04:27 9 A. Well I mean Kevin and I had
11:04:29 10 a conversation and based on that
11:04:31 11 conversation he told me that he made
11:04:34 12 this decision himself. Now whether his
11:04:40 13 decision was influenced by anybody
11:04:42 14 else, I don't know. But he said he
11:04:43 15 made the decision himself.

11:04:44 16 Q. When did he tell you that?

11:04:45 17 A. I can't remember exactly
11:04:47 18 when, but it was during -- it was
11:04:49 19 before the announcement was made as to
11:04:51 20 who got the position.

11:04:53 21 Q. But after Kevin had made the
11:04:54 22 decision?

11:04:56 23 A. Right. He had said that,
11:04:57 24 you know, there's a girl that he's
11:04:59 25 interested in and, you know, that was

1

HOWARD A. HENRY

11:05:04 2

his decision.

11:05:04 3

Q. Did he tell you the name of

11:05:07 4

this girl?

11:05:12 5

A. I don't know if he told me

11:05:13 6

the name at that time.

11:05:14 7

Q. Do you know who was

11:05:14 8

ultimately hired for this position?

11:05:17 9

A. Yes.

11:05:17 10

Q. Who was that?

11:05:18 11

A. Cara Muscolo.

11:05:22 12

Q. Do you know what Cara's

11:05:24 13

qualifications are?

11:05:26 14

A. I know she worked at Wyeth

11:05:29 15

for a short stint. I know that she has

11:05:32 16

a -- at the time she had a BE in

11:05:36 17

chemical engineering.

11:05:37 18

Q. Do you know what her work

11:05:39 19

background is?

11:05:39 20

A. I know that she worked at

11:05:41 21

Wyeth as -- in the packaging area for a

11:05:44 22

short stint as either a supervisor of

11:05:50 23

some sort, but I don't know a hundred

11:05:53 24

percent.

11:05:53 25

Q. Did you ever work with Cara?

1

HOWARD A. HENRY

11:05:55 2

A. Yes, I have.

11:06:01 3

Q. When did you work with her?

11:06:03 4

A. At various times during

11:06:05 5

various projects throughout my stint at

11:06:08 6

Wyeth when I was an engineer. The

11:06:10 7

engineers, we kind of cross-pollinate,

11:06:13 8

if you will.

11:06:13 9

Q. Did you work with her before

11:06:14 10

she was hired for this particular

11:06:16 11

position?

11:06:16 12

A. No.

11:06:18 13

Q. But you worked with her

11:06:20 14

after?

11:06:20 15

A. Yes.

11:06:21 16

Q. And what are your

11:06:22 17

impressions of Cara?

11:06:27 18

A. I'm not here to judge her.

11:06:28 19

We worked together and, you know, I

11:06:34 20

guess there are all areas where we can

11:06:36 21

learn from each other and grow from

11:06:38 22

each other. So, basically for the

11:06:46 23

most, part we were amicable toward each

11:06:48 24

other.

11:06:49 25

Q. Do you have any reason to

1

HOWARD A. HENRY

11:06:50 2

believe she was not qualified for the position she was hired at the time she was hired?

11:06:52 3

11:06:53 4

11:06:54 5

A. I cannot say she was not qualified.

11:06:56 6

11:07:05 7

Q. And after the decision was made and having had the opportunity to work with her, do you believe that she was in fact qualified for the position?

11:07:06 8

11:07:08 9

11:07:13 10

11:07:15 11

A. I believe that she -- she performed her functions, she did her duties. She performed the function in the position, but I can't -- I wouldn't judge her in that light. It's not for me to judge her like that.

11:07:21 12

11:07:23 13

11:07:30 14

11:07:32 15

11:07:35 16

11:07:36 17

Q. But I'm asking you to judge her and I'm asking you to tell me based on your experience with her in this position whether she was in fact qualified for this position?

11:07:47 18

11:07:50 19

11:07:51 20

11:07:53 21

11:07:57 22

A. I can't say she was not qualified. I can't say that she didn't perform the duties in the position.

11:07:59 23

11:08:01 24

11:08:04 25

From what -- from my interaction with

1

HOWARD A. HENRY

11:08:06 2

her we interacted well, and that's the
best I can assess.

11:08:11 3

11:08:14 4

11:08:16 5

11:08:21 6

Q. Do you know what criteria
was used in selecting Cara Muscolo for
this position?

11:08:26 7

A. All of the criteria, no.

11:08:28 8

11:08:29 9

Q. Do you know any of the
criteria?

11:08:29 10

11:08:31 11

11:08:34 12

11:08:40 13

11:08:42 14

A. I mean what was mentioned to
me was that there was a -- there was an
area that she -- she -- she had some
exposure to and based on that the
decision was made.

11:08:48 15

11:08:50 16

Q. But you weren't involved in
the decisionmaking process?

11:08:51 17

A. No.

11:08:52 18

11:08:56 19

11:08:57 20

11:09:01 21

Q. And who told you about this?
You mentioned someone told you about
this one criteria. Who was that
person?

11:09:01 22

A. Mr. Costello himself.

11:09:03 23

11:09:18 24

11:09:21 25

Q. When you spoke to Mr.
Costello about this decision, did you
express any disappointment that you

HOWARD A. HENRY

11:09:24 2 weren't selected for the position?

11:09:26 3 A. I mean I didn't -- I don't
11:09:29 4 know if I'm -- if I kind of looked
11:09:31 5 disappointed. I may have looked
11:09:33 6 disappointed, but at that time he and
11:09:37 7 I, I took it as, you know, that was his
11:09:40 8 decision, I respected it, and I moved
11:09:42 9 on at that time.

11:09:43 10 Q. Do you have any basis for
11:09:52 11 believing that you were not chosen for
11:09:54 12 this particular position because of
11:09:56 13 your race?

11:09:59 14 A. I believe a pattern was
11:10:02 15 established as time went on. I mean I
11:10:05 16 wasn't really looking for that at that
11:10:08 17 time. You know, we were all working
11:10:11 18 together to achieve goals, to do what's
11:10:15 19 right for the company. So I wasn't
11:10:17 20 really looking for anything at that
11:10:18 21 time. But as time went on a pattern
11:10:21 22 established itself.

11:10:25 23 Q. I don't think you answered
11:10:26 24 my question. I'll ask it again. Do
11:10:30 25 you have any basis for believing that

1

HOWARD A. HENRY

11:10:31 2

you were not chosen for that particular
position because of your race?

11:10:34 3

11:10:37 4

A. At that time? Or now?

11:10:43 5

Q. At that time.

11:10:43 6

11:10:44 7

A. At that time I didn't see
what I saw now.

11:10:46 8

11:10:49 9

Q. So the answer is at that
time, no?

11:10:50 10

A. At that time, no.

11:10:50 11

Q. Okay. Now how about now?

11:10:53 12

A. Now --

11:10:54 13

11:10:55 14

Q. Do you have a basis for
believing?

11:10:55 15

11:10:57 16

A. Now, as a pattern
established itself I believe there is a
basis for it.

11:10:58 17

11:10:59 18

11:11:01 19

Q. And what is that basis for
believing that you were not chosen for
this particular position because of
your race?

11:11:02 20

11:11:05 21

11:11:06 22

11:11:08 23

11:11:12 24

11:11:14 25

A. Basically as I began to
apply for more positions, and I -- not
in every case, but in most of those
cases, there seemed to be a pattern at

1

HOWARD A. HENRY

11:11:17 2

which we weren't even considered, when

11:11:22 3

I say we, myself, and some of the

11:11:25 4

African American men that I spoke with,

11:11:27 5

were not considered for a managerial

11:11:31 6

track position at Wyeth.

11:11:37 7

Q. Any other basis?

11:11:40 8

A. There may be some other

11:11:41 9

basis, but I mean the baseline that's

11:11:47 10

established, the foundational truth

11:11:50 11

that's been established took time to

11:11:52 12

develop themselves. It wasn't

11:11:57 13

something that -- it wasn't an

11:11:58 14

instantaneous thing that spurred in my

11:12:01 15

emotion or spurred in my heart, but

11:12:03 16

it's something that presented itself

11:12:05 17

over time.

11:12:06 18

Q. I'd like you to focus again

11:12:08 19

on this particular hiring decision.

11:12:10 20

And is there anything at all about this

11:12:12 21

particular decision, asking you just

11:12:15 22

about this decision in isolation, do

11:12:20 23

you have any basis for believing that

11:12:22 24

you were not chosen because of your

11:12:24 25

race? And I understand what you've

HOWARD A. HENRY

11:12:28 2 said about the continue --

11:12:29 3 A. Right. I mean it's --

11:12:34 4 it's -- at that time I didn't see

11:12:36 5 things the way I see it now. So at

11:12:38 6 that time I can say no. But as --

11:12:41 7 excuse me, as time went on, you look

11:12:43 8 back and you understand, you see

11:12:45 9 certain things and you say this

11:12:50 10 established -- establishes a pattern in

11:12:52 11 your mind as a certain type of behavior

11:12:54 12 that's consistent with the basis that

11:12:57 13 we're not given those opportunities to

11:13:01 14 advance.

11:13:01 15 Q. So other than this pattern

11:13:05 16 as you described it, is there anything

11:13:07 17 else? Do you have any other basis for

11:13:10 18 believing that you were not chosen for

11:13:12 19 this particular project engineer

11:13:14 20 position in 2001 because of your race,

11:13:18 21 yes or no?

11:13:20 22 A. The word basis to me means

11:13:28 23 it precludes any other form of

11:13:32 24 ideology, like a formula in one's mind

11:13:34 25 to believe that it should be denied an

HOWARD A. HENRY

1
11:13:36 2 opportunity. And the word basis to me
11:13:39 3 that you're trying to work around tells
11:13:41 4 me that, you know, there's nothing else
11:13:44 5 that could come into my mind to say
11:13:47 6 that I was denied this opportunity.

11:13:51 7 Now at the time, you know,
11:13:52 8 if we look at it -- if I look at it
11:13:54 9 from the point in time where I was
11:13:56 10 denied the opportunity I would say no,
11:13:58 11 because I wasn't looking for things
11:14:00 12 like that. But it ties in to what I
11:14:07 13 stated. That's the best way I can
11:14:12 14 answer that question. I can't answer
11:14:14 15 it the way you would like me to,
11:14:16 16 unfortunately, but I mean that's the
11:14:19 17 best way I can answer it for you.

11:14:21 18 Q. Mr. Henry, I've asked you a
11:14:27 19 question which calls for a yes or no
11:14:29 20 answer. I've listened to your answer
11:14:32 21 to the last question. I'll restate the
11:14:37 22 question for you and ask you to
11:14:39 23 reconsider it and answer yes or no if
11:14:41 24 you can.

11:14:44 25 So other than the pattern as

1

HOWARD A. HENRY

11:14:45 2 you described it, is there anything
11:14:48 3 else, do you have any basis for
11:14:51 4 believing that you were not chosen for
11:14:53 5 this particular project engineer
11:14:55 6 position in 2001 because of your race?

11:14:59 7 A. And you say if I can. And
11:15:03 8 I'm just telling you that based -- when
11:15:07 9 you say -- when you use basis, there
11:15:11 10 may be other things that I may not be
11:15:13 11 considering, that at this time I don't
11:15:15 12 have -- I can't really bring to my
11:15:18 13 mind. So, there may be a basis.

11:15:23 14 Q. I understand, but at this
11:15:25 15 time there's nothing else that comes to
11:15:26 16 your mind?

11:15:28 17 A. There may be.

11:15:31 18 Q. Yes or no?

11:15:31 19 A. There may be a basis. With
11:15:33 20 all due respect, there may be a basis.

11:15:35 21 Q. But you can't tell me what
11:15:37 22 that basis is --

11:15:38 23 A. At this time --

11:15:39 24 Q. -- as you sit here today?

11:15:40 25 A. At this time, no.

1 HOWARD A. HENRY

11:15:52 2 MR. MORELLI: Can I have one
11:15:53 3 moment with my client, do you mind?

11:15:57 4 MR. McQUADE: No.

11:15:59 5 THE VIDEO OPERATOR: Should
11:15:59 6 we go off the record?

11:16:01 7 MR. MORELLI: Yes, you can
11:16:02 8 go off.

11:16:03 9 THE VIDEO OPERATOR: Going
11:16:04 10 off the record at 11:16.

11 (Witness confers with counsel.)

11:17:07 12 THE VIDEO OPERATOR: Returning
11:17:07 13 to the record at 11:17.

11:17:13 14 Q. Mr. Henry, if we can move
11:17:17 15 forward chronologically in time and if
11:17:19 16 you can tell me when you next were
11:17:24 17 denied a promotion and you believe that
11:17:28 18 you were denied that promotion because
11:17:30 19 of your race.

11:17:39 20 A. It would have to be the
11:17:40 21 project coordinator position.

11:17:47 22 Q. And what position was that?

11:17:49 23 A. Excuse me, production
11:17:50 24 coordinator.

11:17:51 25 Q. And when was that?

1 HOWARD A. HENRY

11:17:51 2 A. 2002, around the time of
11:17:58 3 June/July of 2002.

11:18:01 4 Q. And where was that, in what
11:18:04 5 division, department or group was that
11:18:06 6 opening?

11:18:09 7 A. It was in Lederle Consumer
11:18:13 8 Health, in the consumer health division
11:18:15 9 of Wyeth Pharmaceuticals.

11:18:22 10 Q. For this open position --
11:18:24 11 who would be the supervisor for this
11:18:26 12 open position, do you know?

11:18:30 13 A. At the time it was Andy
11:18:37 14 Schaschl.

11:18:46 15 Q. And how did you apply for
11:18:47 16 this position, if you applied?

11:18:48 17 A. Through the -- through the
11:18:50 18 bidding system.

11:18:52 19 Q. What happened after you
11:18:56 20 submitted your bid?

11:18:57 21 A. I got a call for an
11:18:58 22 interview.

11:19:00 23 Q. Do you remember who called
11:19:01 24 you?

11:19:02 25 A. No.

HOWARD A. HENRY

11:21:32 2 on-and-off relationships with him, you
11:21:34 3 know, interaction with him.

11:21:36 4 Q. At this time, though, in
11:21:37 5 July of 2002 --

11:21:40 6 A. We interacted.

11:21:42 7 Q. But you didn't work together
11:21:44 8 on a regular or consistent basis; is
11:21:47 9 that correct?

11:21:47 10 A. Correct.

11:21:48 11 Q. Do you remember what Mr.
11:21:49 12 Schaschl's position was at this time?

11:21:52 13 A. From what I remember, he was
11:21:53 14 a director.

11:21:59 15 Q. And is it your understanding
11:22:00 16 that he was the individual who was
11:22:03 17 going to be making the hiring decision?

11:22:05 18 A. Yes.

11:22:06 19 Q. And you considered this
11:22:10 20 position a promotion?

11:22:12 21 A. Yes.

11:22:13 22 Q. Why is that?

11:22:14 23 A. It was from what I
11:22:17 24 understood a level change, a change in
11:22:23 25 salary, a change in responsibility, and

1

HOWARD A. HENRY

11:22:32 2

more exposure.

11:22:39 3

Q. Do you know who was

11:22:51 4

ultimately selected for this position?

11:22:52 5

A. Yes.

11:22:53 6

Q. Who was that?

11:22:53 7

A. Chris DeFeciani.

11:23:04 8

Q. Chris DeFeciani, is that a

11:23:07 9

man or a woman?

11:23:09 10

A. A man, with all due respect,

11:23:11 11

a man.

11:23:11 12

Q. Do you know what Chris

11:23:12 13

DeFeciani's race or origin is?

11:23:22 14

A. He's a white male.

11:23:28 15

Q. Do you know anything about,

11:23:30 16

or at that time, July 2002, did you

11:23:33 17

know anything about Mr. DeFeciani?

11:23:36 18

A. Yes.

11:23:36 19

Q. What did you know about him?

11:23:42 20

A. He worked as a compliance

11:23:43 21

specialist. He also started within the

11:23:45 22

company in something called lab

11:23:46 23

operations where he -- he technically

11:23:53 24

was in charge, you know, cleaned up

11:23:55 25

labs and cleaned up the offices, things

HOWARD A. HENRY

11:23:57 2 like that, he was a supervisor for
11:23:59 3 awhile. So I know a little bit about
11:24:02 4 him.

11:24:02 5 Q. At that time was he working
11:24:03 6 with Todd Davenport?

11:24:06 7 A. I don't recall.

11:24:10 8 Q. Do you know whether he -- at
11:24:11 9 that time whether he had been filling
11:24:12 10 in for Mr. Davenport when Mr. Davenport
11:24:15 11 was absent?

11:24:16 12 A. He may have.

11:24:20 13 Q. Would he have been reporting
11:24:22 14 to Mr. Schaschl at that time?

11:24:25 15 A. I know there was one point
11:24:27 16 where the position reported into Mr.
11:24:29 17 Bob Bracco.

11:24:32 18 Q. And who is Bob Bracco?

11:24:34 19 A. He was an associate
11:24:49 20 director, but as far as with who the
11:24:53 21 position reported into, it may have
11:24:54 22 reported into Andy Schaschl at that
11:24:56 23 time. I think so.

11:24:57 24 Q. Now, was this in a different
11:25:00 25 division or group than you were working

HOWARD A. HENRY

11:27:06 anyone?

11:27:07 A. Yes.

11:27:11 Q. Who did you discuss it with?

11:27:12 A. I discussed it with, I may
11:27:18 have discussed it with Todd Davenport
11:27:20 briefly, and some of the people that --
11:27:21 there were some people that came to me,
11:27:23 I don't recall their names.

11:27:26 Q. But you believe that the
11:27:28 decisionmakers were Todd Davenport and
11:27:30 Andrew Schaschl; is that correct?

11:27:33 A. No, I don't.

11:27:35 Q. No?

11:27:35 A. No, I believe the main
11:27:37 decisionmaker was actually Andy
11:27:39 Schaschl. He was the main
11:27:41 decisionmaker.

11:27:42 Q. And why do you believe that?

11:27:43 A. Based on what I learned
11:27:51 later on that was how I came to that
11:27:56 conclusion.

11:27:56 Q. How did you learn that later
11:27:58 on? Is that something you learned
11:27:59 during the course of this litigation?

HOWARD A. HENRY

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11:28:56 2 him in approximately January 2004,
11:28:59 3 correct?

11:28:59 4 A. At that time -- at this
11:29:01 5 time, yes.

11:29:02 6 Q. And can you tell me about
11:29:03 7 that discussion you had with Mr.
11:29:05 8 Schaschl in 2004?

11:29:07 9 A. I asked him how was the
11:29:13 10 decision made as far -- regarding the
11:29:16 11 production engineer product -- excuse
11:29:18 12 me, product coordinator position at the
11:29:22 13 time when it was available. He said
11:29:24 14 that well, Chris had done it for a
11:29:26 15 little while, he had done it for a
11:29:31 16 little while. So I said well, given
11:29:36 17 the opportunity, I would have liked to
11:29:40 18 have done it for a little while.
11:29:43 19 Because usually you're given the
11:29:45 20 opportunity to do something for a
11:29:46 21 little while just to expose yourself to
11:29:48 22 it, and it, you know, if you show
11:29:52 23 interest in a particular position they
11:29:55 24 may extract some of the duties of that
11:29:56 25 position for you to do it so that you

HOWARD A. HENRY

1
11:30:00 2 can -- should the position be made
11:30:04 3 available perhaps slide into the
11:30:07 4 position or be the chief candidate for
11:30:13 5 the position once it becomes available.

11:30:16 6 Q. What did Mr. Schaschl say?

11:30:23 7 A. Basically he said that he,
11:30:24 8 meaning Mr. DeFeciani was chosen because
11:30:27 9 he did it for a little while, and I said,
11:30:30 10 well, when it was made available on a
11:30:32 11 temporary basis I would like to have had
11:30:34 12 an opportunity to do it for a little
11:30:38 13 while. And he said, well, it was given
11:30:41 14 to Rich because he did it for a little
11:30:43 15 while. And I said, well, when Chris went
11:30:46 16 out hurt on medical leave why wasn't I
11:30:52 17 afforded the opportunity to do it for a
11:30:54 18 little while, you know I was interested
11:30:55 19 in the position, you knew Chris and I
11:30:58 20 interviewed for the position, therefore,
11:31:00 21 I would have liked the opportunity to
11:31:02 22 have done it for a little while. And he
11:31:05 23 kind of excused and he kept on repeating
11:31:07 24 that, you know, the reason why Rich was
11:31:09 25 given the temporary assignment to do it

HOWARD A. HENRY

11:31:12 2 was that he did it for a little while.

11:31:14 3 Q. Did he explain any other,

11:31:16 4 did Mr. Schaschl explain any other

11:31:17 5 reason for his decision in choosing Mr.

11:31:21 6 DeFeciani?

11:31:22 7 A. No.

11:31:23 8 Q. Did you ask?

11:31:23 9 A. I mean -- yes, I asked him,

11:31:25 10 I said -- you know, sorry, I didn't

11:31:28 11 mean to cut you off.

11:31:29 12 Q. No, go ahead.

11:31:30 13 A. I mean basically I

11:31:31 14 questioned him again and I said so he

11:31:33 15 did it for a little while and he said

11:31:35 16 yes. That was it.

11:31:40 17 Q. Is there anything else you

11:31:41 18 recall from this conversation with Mr.

11:31:44 19 Schaschl in January of 2004, anything

11:31:45 20 else you said or anything else he said?

11:31:47 21 A. Regarding this particular

11:31:48 22 issue?

11:31:49 23 Q. Yes.

11:31:49 24 A. Not that I can recall.

11:31:54 25 Q. Did you tell Mr. Schaschl

1 HOWARD A. HENRY

11:31:58 2 that you believed you had not been
11:32:00 3 chosen because of your race?

11:32:01 4 A. At that time, no.

11:32:09 5 Q. At that time, January 2004,
11:32:10 6 had you told anyone that you believed
11:32:12 7 that you had not been chosen for any
11:32:16 8 particular position because of your
11:32:17 9 race?

11:32:18 10 A. I started to suspect certain
11:32:22 11 things at that time, but I didn't want
11:32:24 12 to come out right and say it until I
11:32:29 13 felt, you know, that was the case.

11:32:31 14 Q. So before -- at this time you
11:32:35 15 had made no complaint with anyone at
11:32:37 16 Wyeth regarding racial discrimination of
11:32:39 17 any sort, January of 2004?

11:32:42 18 A. Not that I can recall, no.

11:32:48 19 Q. You mentioned in your
11:32:53 20 meeting with Mr. Schaschl in January
11:32:56 21 2004, you mentioned something about Mr.
11:32:57 22 DeFeciani being out for a period of
11:33:01 23 time and you had wanted to fill in for
11:33:04 24 him. Can you explain to me what that
11:33:06 25 was about?

1 HOWARD A. HENRY

11:33:07 2 A. Mr. DeFeciani went out on
11:33:11 3 medical leave.. He had to get some
11:33:13 4 heart surgery. So there was going to
11:33:18 5 be someone who was going to fill the
11:33:20 6 position as an interim, and it was
11:33:28 7 going to -- that's how the position was
11:33:30 8 made available on an interim basis.

11:33:33 9 Q. So Mr. DeFeciani went out on
11:33:37 10 medical leave?

11:33:37 11 A. Right.

11:33:38 12 Q. With the understanding that
11:33:38 13 he would be returning to Wyeth?

11:33:40 14 A. Right.

11:33:41 15 Q. Returning to the same
11:33:42 16 position?

11:33:42 17 A. Right.

11:33:42 18 Q. So the position was just
11:33:46 19 someone filling in in Mr. DeFeciani's
11:33:48 20 absence, correct?

11:33:49 21 A. Right.

11:33:50 22 Q. Did you tell anyone that you
11:33:53 23 were interested in this particular
11:33:56 24 position or filling in for Mr.
11:34:00 25 DeFeciani when he was out on medical

HOWARD A. HENRY

11:34:03 2 leave?

11:34:07 3 A. I had a discussion with Mr.
11:34:08 4 Wardrop as to why I wasn't afforded the
11:34:14 5 opportunity to do it when Chris was
11:34:16 6 out.

11:34:16 7 Q. Mr. Wardrop or Mr. Schaschl?

11:34:18 8 A. Mr. Wardrop.

11:34:19 9 Q. And when did that
11:34:21 10 conversation occur?

11:34:21 11 A. It was -- it occurred around
11:34:24 12 January of -- January/February of 2003.

11:34:31 13 Q. And this was after the time
11:34:42 14 period where Mr. DeFeciani had gone out
11:34:45 15 and returned from medical leave?

11:34:47 16 A. I can't recall. I don't
11:34:51 17 know.

11:34:51 18 Q. Do you know whether you told
11:34:53 19 anybody, anybody at Wyeth that you were
11:34:58 20 interested in filling in for Mr.
11:35:02 21 DeFeciani either before he went out on
11:35:05 22 his medical leave or during his medical
11:35:08 23 leave?

11:35:09 24 A. I don't recall. I don't
11:35:15 25 recall.

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HOWARD A. HENRY

11:36:43 2 that they, meaning Schaschl and others,
11:36:46 3 because I asked him who's the they, he
11:36:48 4 said Andy and some others, I didn't ask
11:36:51 5 him who the others were, told him, I
11:36:54 6 mean basically made a decision that
11:36:57 7 Rich Morgan would be able to do it for
11:36:59 8 a little while, should be given the
11:37:02 9 opportunity to do it for a little
11:37:03 10 while.

11:37:06 11 Q. And was in fact Chris Morgan
11:37:09 12 the individual who filled in for Mr.
11:37:11 13 DeFeciani?

11:37:12 14 A. Yes.

11:37:12 15 Q. Had Mr. Morgan been filling
11:37:15 16 in for Mr. DeFeciani prior to this --

11:37:19 17 A. I don't know.

11:37:19 18 Q. -- when he was absent for
11:37:22 19 short periods of time?

11:37:23 20 A. I don't know.

11:37:24 21 Q. Do you know anything about
11:37:33 22 Mr. DeFeciani's qualifications for this
11:37:36 23 particular position as a production
11:37:37 24 coordinator?

11:37:39 25 A. As to when he first got it

1

HOWARD A. HENRY

11:37:43 2

or him performing the duties himself?

11:37:48 3

Q. Let's start with when he

11:37:49 4

first got it.

11:37:50 5

A. No.

11:37:51 6

Q. And how about today, as you

11:37:55 7

sit here?

11:38:01 8

A. I mean no.

11:38:07 9

Q. Do you have any reason to

11:38:08 10

believe that Mr. DeFeciani was not

11:38:10 11

qualified for the position?

11:38:11 12

A. No.

11:38:12 13

Q. At the time he was hired?

11:38:13 14

A. No.

11:38:13 15

Q. Do you have any reason to

11:38:15 16

believe that he was not qualified at

11:38:19 17

any time he was serving in this

11:38:20 18

position?

11:38:21 19

A. No.

11:38:21 20

Q. Do you have any reason to

11:38:40 21

believe -- strike that.

11:38:41 22

Can you tell me what your

11:38:43 23

basis is for believing that you were

11:38:46 24

not selected for this particular

11:38:48 25

position because of your race?

HOWARD A. HENRY

11:38:51 2 A. When I approached Mr.
11:38:55 3 Schaschl and I asked him, you know, he
11:39:01 4 appeared truculent and he stated that
11:39:06 5 basically the reason why Chris got it
11:39:10 6 was because he did it for a little
11:39:11 7 while. I stated that well I wanted the
11:39:14 8 opportunity to do it for a little
11:39:16 9 while, you were well aware of the fact
11:39:18 10 that I interviewed for the position
11:39:19 11 previously, and that should an
11:39:22 12 opportunity like this come up, I should
11:39:25 13 have been afforded that opportunity.

11:39:31 14 And I don't recall his
11:39:32 15 response at this time, but for all
11:39:39 16 intents and purposes he just stated
11:39:40 17 that well, at that time the decision
11:39:43 18 was made because Chris had did it for a
11:39:46 19 little while.

11:39:47 20 Q. Anything else?

11:39:49 21 A. No, I can't recall at this
11:39:51 22 time.

11:39:51 23 Q. Now how about Mr. Morgan,
11:39:57 24 the individual who filled in for Mr.
11:39:59 25 DeFeciani during his medical leave, do

1 HOWARD A. HENRY

11:40:03 2 you know anything about his
11:40:04 3 qualifications for filling in for this
11:40:08 4 particular position?

11:40:09 5 A. Well, he was a production
11:40:12 6 supervisor. He started out as a
11:40:16 7 pharmaceutical operator. As far as his
11:40:21 8 education, he didn't have a degree at
11:40:30 9 the time.

11:40:30 10 Q. Anything else?

11:40:32 11 A. That's basically it.

11:40:35 12 Q. Do you know whether a degree
11:40:37 13 is required for this position?

11:40:40 14 A. I don't remember the exact
11:40:44 15 job posting. From what I do recall I
11:40:47 16 think a degree, they requested a
11:40:49 17 degree.

11:40:50 18 Q. But there was no job posting
11:40:53 19 for the position when it -- when Mr.
11:40:57 20 DeFeciani went out on medical leave?

11:41:00 21 A. No.

11:41:00 22 Q. There really was no
11:41:01 23 position?

11:41:02 24 A. Well, no, there wasn't. No.

11:41:07 25 Q. It was just filling in?

1 HOWARD A. HENRY

11:41:09 2 A. Yes.

11:41:10 3 Q. Mr. Morgan didn't get a new
11:41:14 4 title during this position, did he, as
11:41:17 5 far as you know?

11:41:18 6 A. Well, he would sign things
11:41:19 7 electronically interim production
11:41:22 8 coordinator. And, you know, they
11:41:26 9 afforded us a loose interpretation of
11:41:29 10 using titles like that if you did
11:41:32 11 something on an interim basis.

11:41:34 12 Q. Did he continue to use that
11:41:36 13 title after his period of filling in
11:41:39 14 for Mr. DeFeciani ended?

11:41:41 15 A. No.

11:41:42 16 Q. Do you have any reason to
11:41:52 17 believe that Mr. Morgan was not
11:41:53 18 qualified to step in and temporarily
11:41:57 19 perform the production coordinator job
11:42:00 20 duties during Mr. DeFeciani's absence?

11:42:03 21 A. No.

11:42:04 22 Q. And can you tell me what
11:42:09 23 your basis is for believing that you
11:42:13 24 were not asked to fill in for Mr.
11:42:18 25 DeFeciani during his medical leave

HOWARD A. HENRY

11:42:26 2 because of your race?

11:42:28 3 A. Usually, the -- more -- many
11:42:37 4 of the individuals that had that
11:42:39 5 position went on to become managers.
11:42:42 6 So this position has a lot of exposure,
11:42:46 7 introduces you to a lot of situations
11:42:49 8 that a manager considers as he moves
11:42:53 9 throughout the corporate structure. So
11:42:56 10 this position is used as a stepping
11:42:58 11 stone toward management.

11:43:04 12 And basically, I made it
11:43:07 13 known throughout my constant speaking
11:43:12 14 with individuals that I wanted to
11:43:13 15 improve, acquire more knowledge and
11:43:18 16 sought management positions, a
11:43:20 17 management position within the
11:43:21 18 organization.

11:43:22 19 Q. Do you have any other basis
11:43:30 20 for believing that you were denied this
11:43:33 21 opportunity because of your race?

11:43:35 22 A. No.

11:43:40 23 Q. Do you know who made the
11:43:51 24 decision to have Mr. Morgan fill in for
11:43:53 25 Mr. DeFeciani during his absence?

1

HOWARD A. HENRY

11:43:56 2

A. From what Mr. Wardrop told

11:43:57 3

me it was Andy Schaschl's decision.

11:44:00 4

Q. Do you know whether Mr.

11:44:02 5

DeFeciani had any input in this

11:44:05 6

decision?

11:44:05 7

A. No.

11:44:06 8

Q. If I can refer you to the

11:44:20 9

complaint which has been marked as

11:44:21 10

Exhibit number 4, paragraph 25.

11:44:28 11

A. Yes.

11:44:29 12

Q. Paragraph 25 says, "In the

11:44:31 13

spring of 2003, Howard complained to

11:44:35 14

Walter Wardrop regarding his denial of

11:44:37 15

advancement opportunities."

11:44:41 16

A. Right.

11:44:41 17

Q. Is that the conversation

11:44:46 18

with Mr. Wardrop that you had referred

11:44:49 19

to --

11:44:51 20

A. Yes.

11:44:51 21

Q. -- a little while ago?

11:44:53 22

A. Yes.

11:44:53 23

Q. And what advancement

11:44:57 24

opportunities did you discuss at this

11:45:00 25

particular meeting?

1

HOWARD A. HENRY

11:45:03 2

A. The mainly --

11:45:04 3

Q. Was it -- I'm sorry.

11:45:05 4

A. No, go on.

11:45:07 5

Q. Was it just the three

11:45:09 6

positions that we have just discussed,

11:45:11 7

the project -- well, I should say two

11:45:13 8

positions, the project engineer

11:45:14 9

position and the production coordinator

11:45:16 10

position?

11:45:17 11

A. From what I can recall, yes.

11:45:20 12

Q. Okay. What was the next

11:45:31 13

position that you were -- that you had

11:45:34 14

applied for but did not receive?

11:45:43 15

A. I think it was the process

11:45:45 16

engineer position.

11:45:48 17

Q. And that position was in the

11:45:49 18

vaccine division; is that correct?

11:45:52 19

A. Yes.

11:45:52 20

Q. That's a separate division

11:45:54 21

than you were working in?

11:45:56 22

A. Yes.

11:45:57 23

Q. And it's a separate division

11:45:59 24

than the production coordinator

11:46:02 25

position you had previously applied to?

1

HOWARD A. HENRY

11:46:04 2

A. Yes.

11:46:04 3

Q. As well as the project

11:46:06 4

engineer position that you previously
have applied to?

11:46:08 5

11:46:08 6

A. Yes.

11:46:09 7

Q. And how did you apply for

11:46:15 8

this position?

11:46:16 9

A. Through the bidding process.

11:46:18 10

Q. What happened after you

11:46:20 11

submitted your bid?

11:46:23 12

A. I think I got confirmation

11:46:25 13

that my bid was received.

11:46:27 14

Q. What happened next?

11:46:29 15

A. From what I remember, I was

11:46:34 16

contacted about an interview.

11:46:35 17

Q. And did you interview?

11:46:36 18

A. Yes.

11:46:36 19

Q. Who did you interview with?

11:46:38 20

A. A gentleman by -- I think

11:46:42 21

his name was Kirit Rokad, I think.

11:47:01 22

Q. And who was Kirit Rokad?

11:47:03 23

A. He was the person that the

11:47:05 24

position reported into.

11:47:10 25

Q. So is it your understanding

HOWARD A. HENRY

11:47:12 2 that he was the individual who was
11:47:14 3 going to be making the hiring decision
11:47:15 4 with this job?

11:47:16 5 A. Yes.

11:47:16 6 Q. And do you know what his
11:47:18 7 position was at this time?

11:47:18 8 A. No.

11:47:22 9 Q. Did you know him before --

11:47:25 10 A. No.

11:47:26 11 Q. And can you tell me what
11:47:28 12 your understanding of this position
11:47:29 13 was?

11:47:30 14 A. It was performing functions
11:47:35 15 within the vaccine area as an engineer
11:47:39 16 dealing with their equipment, dealing
11:47:41 17 with aseptic conditions.

11:47:51 18 Q. And why were you interested
11:47:52 19 in this position?

11:47:54 20 A. Basically, after the
11:48:00 21 restructuring, I decided that perhaps
11:48:02 22 maybe I should look at some other
11:48:04 23 opportunities outside of the consumer
11:48:08 24 health division. So I started to look
11:48:12 25 outside.

1 HOWARD A. HENRY

11:48:18 2 MR. McQUADE: Could you
11:48:18 3 please mark that.

4 (Henry Exhibit 5 for
5 identification, interview schedule for
11:48:31 6 the process engineer position.)

11:48:31 7 Q. Mr. Henry, I've handed you
11:48:45 8 an exhibit marked Exhibit number 5. Do
11:48:50 9 you recognize this document?

11:48:53 10 A. Yes.

11:48:53 11 Q. And what is it?

11:48:54 12 A. Interview schedule for
11:48:56 13 the -- for the process engineer
11:48:59 14 position.

11:48:59 15 Q. And does this refresh your
11:49:02 16 recollection as to who you interviewed
11:49:04 17 with?

11:49:05 18 A. Yes.

11:49:06 19 Q. Robert Ruth, do you remember
11:49:11 20 your interview with Robert Ruth?

11:49:14 21 A. I remember meeting him. I
11:49:16 22 don't remember exactly everything that
11:49:22 23 was said.

11:49:22 24 Q. Kirit Rokad we already spoke
11:49:25 25 about. You also met with Andrew Fong.

1

HOWARD A. HENRY

11:49:28 2

A. Right.

11:49:29 3

Q. Do you remember anything

11:49:30 4

about that particular meeting?

11:49:31 5

A. Not everything that was

11:49:32 6

said, no.

11:49:33 7

Q. Rich Musa, you interviewed

11:49:34 8

with Rich as well?

11:49:35 9

A. Yes.

11:49:36 10

Q. Do you remember anything

11:49:37 11

from that?

11:49:37 12

A. Vaguely.

11:49:42 13

Q. Gaurav Patel?

11:49:45 14

A. Yes.

11:49:46 15

Q. Do you remember anything

11:49:51 16

from that interview?

11:49:52 17

A. Not at this time.

11:49:53 18

Q. You also interviewed with

11:49:55 19

Monica Amonica?

11:49:57 20

A. Yes.

11:49:57 21

Q. Do you remember anything

11:49:58 22

from that particular interview?

11:49:59 23

A. No.

11:50:00 24

Q. Did you consider this

11:50:10 25

position a promotion?

1 HOWARD A. HENRY

11:50:10 2 A. Yes.

11:50:13 3 Q. Why?

11:50:13 4 A. There was going to be a
11:50:15 5 level change from what I understand
11:50:19 6 involved.

11:50:21 7 Q. When you say level change,
11:50:22 8 that's the salary level?

11:50:24 9 A. Right.

11:50:24 10 Q. Do you know what the salary
11:50:26 11 level for this position was?

11:50:27 12 A. I can't recall.

11:50:28 13 Q. Is there any other reason
11:50:37 14 why you viewed it as a promotion?

11:50:39 15 A. Opportunity, another area.

11:50:44 16 Q. Do you know who else bid on
11:50:46 17 this particular --

11:50:50 18 A. No.

11:50:50 19 Q. -- position? Do you know
11:50:52 20 who was hired for this particular
11:50:53 21 position?

11:50:53 22 A. I remember -- I remember a
11:50:59 23 name Martinez. I don't remember
11:51:01 24 anything other than that.

11:51:02 25 Q. Do you know anyone by the

HOWARD A. HENRY

11:51:49 2 Q. How so?

11:51:50 3 A. Based on the posting I had
11:51:52 4 the qualifications. They requested an
11:51:56 5 engineering background and some of the
11:52:00 6 descriptions that were -- that they
11:52:02 7 described met some of the
11:52:07 8 qualifications that I had.

11:52:09 9 Q. Had you ever worked in the
11:52:13 10 vaccine division at Wyeth before?

11:52:15 11 A. No.

11:52:16 12 Q. Do you believe that it would
11:52:17 13 have been an advantage to hire someone
11:52:19 14 who had been working in that division?

11:52:23 15 A. Yes.

11:52:24 16 Q. Why?

11:52:24 17 A. Exposure and experience
11:52:29 18 sometimes defeats some of the things
11:52:32 19 that you may think a person may have,
11:52:36 20 so. A proven track record helps.

11:52:42 21 Q. And had you ever worked with
11:52:45 22 any of the individuals in this division
11:52:49 23 that you interviewed with?

11:52:51 24 A. Yes.

11:52:52 25 Q. And who was that?

HOWARD A. HENRY

11:52:53 2 A. Rich Musa.

11:52:55 3 Q. Other than Rich?

11:52:57 4 A. No.

11:52:59 5 Q. And what is your basis for
11:53:04 6 believing that you were denied this
11:53:06 7 particular position because of your
11:53:09 8 race?

11:53:10 9 A. Well, I didn't -- I didn't
11:53:12 10 express that I was denied this
11:53:14 11 particular position because of my race.

11:53:15 12 Q. Do you believe that as we
11:53:17 13 sit here today?

11:53:18 14 A. No.

11:53:19 15 Q. So you don't believe --
11:53:22 16 okay.

11:53:39 17 Can you tell me what the
11:53:39 18 next position you applied for and were
11:53:42 19 denied?

11:53:43 20 A. Staff engineer.

11:53:45 21 Q. And do you know when that
11:53:47 22 was?

11:53:48 23 A. Same time, around January,
11:53:50 24 February 2004.

11:53:55 25 Q. And in what division was

1 HOWARD A. HENRY

11:54:08 2 that position?

11:54:09 3 A. I think it was bioprocess.

11:54:20 4 Q. And where does bioprocess
11:54:22 5 fit in?

11:54:24 6 A. In the research aspect of
11:54:26 7 Wyeth.

11:54:27 8 Q. It's a different department
11:54:39 9 separate from the departments in which
11:54:43 10 the production coordinator and project
11:54:46 11 engineer positions?

11:54:50 12 A. Yes.

11:54:52 13 Q. And how did you apply for
11:54:55 14 this position?

11:54:56 15 A. Through the bidding process.

11:54:58 16 Q. And what happened after you
11:55:08 17 submitted your bid?

11:55:09 18 A. I think I received
11:55:10 19 confirmation that I got the -- that my
11:55:13 20 application was received.

11:55:19 21 Q. Anything else happen?

11:55:21 22 A. No. That I could recall,
11:55:25 23 no.

11:55:25 24 Q. Did you ever interview for
11:55:27 25 this position?

HOWARD A. HENRY

11:56:11 2 this -- or I should say how these staff
11:56:16 3 engineer positions came to be opened?

11:56:22 4 A. They were posted on the
11:56:23 5 website, the Wyeth job listing website.

11:56:26 6 Q. Who held these positions
11:56:28 7 previously?

11:56:29 8 A. I don't know. I don't know
11:56:30 9 if they were newly recreated. I don't
11:56:34 10 know.

11:56:34 11 Q. What does a staff engineer
11:56:36 12 do?

11:56:37 13 A. From what I recall, they
11:56:38 14 dealt with the staging of reactions,
11:56:46 15 the taking care of equipment associated
11:56:48 16 with bioprocesses. They were basically
11:56:53 17 going to oversee other engineers that
11:56:58 18 were of lower seniority than they were
11:57:01 19 and schedule their work and schedule
11:57:03 20 some of their duty, from what I
11:57:05 21 understand. I don't remember all of
11:57:06 22 the information with the posting. But
11:57:10 23 it was familiar to me the duties.

11:57:16 24 Q. And do you remember who the
11:57:18 25 supervisor would be for each of these

1 HOWARD A. HENRY

11:57:20 2 two openings as a staff engineer?

11:57:23 3 A. I know -- I think it said
11:57:26 4 the position reported to a gentleman by
11:57:28 5 the name of John Simpson.

11:57:31 6 Q. Who is John Simpson?

11:57:34 7 A. I think he was a director at
11:57:36 8 the time for that particular area.

11:57:38 9 Q. Did you have any prior
11:57:40 10 relationship with Mr. Simpson?

11:57:41 11 A. We interacted.

11:57:46 12 Q. How did you interact?

11:57:48 13 A. Well when I was in research
11:57:51 14 sometimes there was a period where I
11:57:53 15 was working for the division and there
11:58:00 16 was some -- they needed help in that
11:58:02 17 area and I worked with some of the
11:58:04 18 engineers over in that area, and John
11:58:07 19 Simpson and some other individuals were
11:58:10 20 the head -- were heads in that area.

11:58:12 21 Q. Do you know who was
11:58:18 22 ultimately selected for the position,
11:58:21 23 these two positions as staff engineer?

11:58:23 24 A. I was told Andrew Safernack
11:58:26 25 and David Anderson were the two

HOWARD A. HENRY

11:59:19 2 Q. Do you know -- well, you
11:59:28 3 said it's your understanding that Mr.
11:59:31 4 Simpson made the decision?

11:59:32 5 A. Right. When I had my resume
11:59:35 6 I gave it to him personally, so yes.

11:59:38 7 Q. What did you tell him when
11:59:40 8 you gave him your resume?

11:59:42 9 A. I said I'm very interested
11:59:43 10 in this position, I would like to be
11:59:44 11 interviewed for it. He said well then
11:59:47 12 we're taking our time in the review
11:59:49 13 process, but hopefully somebody will
11:59:53 14 contact you regarding it.

11:59:55 15 Q. Anything else that you
11:59:57 16 recall?

11:59:58 17 A. Not that I can recall.

11:59:59 18 Q. With Mr. Simpson? Did you
12:00:02 19 have any other discussions with Mr.
12:00:03 20 Simpson about these positions?

12:00:04 21 A. Not that I can recall.

12:00:05 22 Q. So you don't know how the
12:00:08 23 decision was made?

12:00:09 24 A. No.

12:00:10 25 Q. You don't know who was

1 HOWARD A. HENRY

12:00:57 2 Q. Now, do you believe that you
12:01:09 3 were denied this position because of
12:01:10 4 your race?

12:01:11 5 A. I can't say a hundred
12:01:17 6 percent. There's a small -- there's a
12:01:21 7 small -- there's a probability, because
12:01:24 8 I wasn't given an interview. But I
12:01:28 9 mean I have to say no.

12:01:30 10 Q. So you don't believe that
12:01:32 11 you were denied this position because
12:01:34 12 of your race?

12:01:34 13 A. I mean the only thing I
12:01:42 14 could say is I wasn't given an
12:01:44 15 interview and that made a suspicion,
12:01:46 16 so.

12:01:47 17 Q. Anything else?

12:01:48 18 A. Nothing else.

12:01:54 19 MR. McQUADE: You know, if
12:01:55 20 we could take a short break, maybe five
12:01:58 21 minutes..

12:02:00 22 MR. MORELLI: No problem.

12:02:02 23 THE VIDEO OPERATOR: Going
12:02:02 24 off the record at 12:02.

12:02:06 25 (A recess was taken.)